

Richard Wilcoxon

100

1 School in Lake Forest School District.

2 Q. Do you remember what year that was?

3 A. 1998, the fall.

4 Q. Did you graduate in the fall of '98 or spring of
5 '98?

6 A. I graduated in winter.

7 Q. Of?

8 A. I want to say it was '98. Maybe -- January '98
9 commencement.

10 Q. So when did you start full-time teaching at Lake
11 Forest?

12 A. I'm sorry. I have to think back. I'm sorry.
13 I'm getting confused on the years.

14 Q. Let's mark this at the next exhibit, please.

15 (Wilcoxon Deposition Exhibit 4 was marked
16 for identification.)

17 A. I graduated --

18 Q. Wait.

19 A. Sorry.

20 Q. I have marked as Exhibit 4 what appears to be
21 your application for employment at the Red Clay School
22 District; is that correct?

23 A. Yes, that's correct.

24 Q. Is the writing on this document a copy of your



Richard Wilcoxon

101

1 handwriting?

2 A. That's correct.

3 Q. And at that point you lived in Georgetown,
4 Delaware?

5 A. Yes.

6 Q. It says 24 Fairway. I'm not sure what the --

7 A. 24 Fairway East.

8 Q. How long had you lived at that address?

9 A. That's my parents' home.

10 Q. Were you married at this point?

11 A. Yes.

12 Q. Did you actually live at your parents' home while
13 you were married?

14 A. For a short time, while we were looking for a
15 house in Newark.

16 Q. Were you living there when you made this
17 application to Red Clay on July 3rd, 2001?

18 A. I would have to look. I don't have that -- I
19 don't remember off the top of my head.

20 Q. Where else did you live in Georgetown?

21 A. This is the only place I lived in Georgetown.

22 Q. What?

23 A. This is the only house I've ever lived in in
24 Georgetown.

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A-0101

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102

1 Q. Let's go through your application. Teaching
2 experience, you show first teaching at the Chipman Middle
3 School in Lake Forest School District, correct?

4 A. Yes.

5 Q. And you taught middle school health?

6 A. Yes.

7 Q. And that says you began in August of 1999,
8 correct?

9 A. That's right.

10 Q. And that says through the present, which would be
11 July 3rd, 2001, correct, the date of this application?

12 A. I'm trying to -- I'm trying to remember when I
13 went to the high school. I taught at Lake Forest High
14 School, so that's why I'm trying think.

15 Q. What was --

16 A. I also taught at Lake Forest High School. I'm
17 trying to think which school I was at at that time.

18 Q. Well, this is your application. At the time you
19 filled it out --

20 A. July 1st of -- yes, that's correct. I was at the
21 high school fall 2001-2002, I was at the high school.

22 Q. How many years were you at the middle school?

23 A. From '99 until 2001.

24 Q. And you were then at the high school for?

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A-0102

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103

1 A. One year.

2 Q. For one year?

3 A. Yes.

4 Q. Were you a tenured teacher?

5 A. Yes, I received my tenure.

6 Q. When did you receive that?

7 A. August of I guess it would be 2002.

8 Q. And then you left Lake Forest to move to Newark?

9 A. We had already moved to Newark. I was driving
10 down to Lake Forest High School every day from Newark.

11 Q. And you were looking for positions in New Castle
12 County?

13 A. Yes.

14 Q. Where else did you look besides Red Clay?

15 A. Christina. I want to say it is Colonial, but I'm
16 not sure that's the school district name. New Castle
17 County Votech I have applied at.

18 Q. Where else?

19 A. I probably applied at Middletown at the time. I
20 don't know.

21 Q. And did you receive any offers of employment
22 besides the employment offer at Red Clay?

23 A. Yes.

24 Q. Where was that?

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A-0103

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104

1 A. George Reed Middle School, and I believe that's
2 Colonial School District.

3 Q. What were you teaching there?

4 A. Health.

5 Q. And that would have been in September of 2002?

6 A. Yes.

7 Q. Then you left George Reed in October of 2002 to
8 go to Red Clay?

9 A. That's correct.

10 Q. Why did you leave the job you just started at
11 Colonial to go to Red Clay?

12 A. I wanted to get back to teaching phys-ed, and
13 Colonial indicated I would teach phys-ed, but when I got
14 there they changed their structure. I was strictly a
15 health teacher.

16 Q. Were you told that you had any teaching problems
17 at the time you were at George Reed in the Colonial
18 School District?

19 A. No.

20 Q. Who was your supervisor there? Who were the
21 principals at George Reed?

22 A. Principal was Angela Guy, I believe her name was.

23 Q. How do you spell her last name?

24 A. G-U-Y, I believe. I'm not a hundred percent

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A-0104

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105

1 sure.

2 Q. Did any of the assistant principals criticize
3 your performance in any way?

4 A. No.

5 Q. Did anyone at the Colonial School District
6 criticize your performance while you were at Colonial?

7 A. No.

8 Q. So you left after just a month to go to Red Clay?

9 A. It was a little over a month, but yes.

10 Q. And your reason was because you wanted to teach
11 phys-ed?

12 A. Yes.

13 Q. And at that point were you divorced or were you
14 separated?

15 A. I was still married.

16 Q. But you were separated?

17 A. Not yet.

18 Q. So September 2002, October 2002?

19 A. I misspoke when I said -- our divorce was
20 finalized in September 2003.

21 Q. Right.

22 A. We were separated in November of 2002.

23 Q. November of 2002.

24 A. Yes.



Richard Wilcoxon

106

1 Q. How did you come to know about a position at Red
2 Clay?

3 A. They called me.

4 Q. Do you remember who called you?

5 A. I do not.

6 Q. Do you remember interviewing?

7 A. Yes.

8 Q. Who did you interview with?

9 A. Dr. Nick Manolakos. Frank Rumford was in the
10 interview.

11 Q. Did you have an understanding as to why there was
12 a position available?

13 A. Yes, Mr. Rumford had left phys-ed and was moving
14 up to a student activities person.

15 Q. Did you meet Ms. Freebery at that point?

16 A. I do not remember.

17 Q. Do you know if she was teaching in that fall
18 semester of 2002 and 2003?

19 A. She was not.

20 Q. She was on maternity leave?

21 A. I guess so.

22 Q. Who did you teach with when you arrived at Red
23 Clay?

24 A. There was a long-term sub.

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A-0106

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107

1 Q. Do you know the name?

2 A. All I can remember is name was Jill. I can't
3 remember the rest of it.

4 Q. Were you team teaching with her?

5 A. We did some team teaching, yes, for health.

6 Q. For the health classes?

7 A. Yes.

8 Q. How many health classes did you have when you
9 were at Red Clay the first year, in 2002/2003?

10 A. Number wise, how many health classes?

11 Q. Yes.

12 A. I guess it would be ten, five each semester.

13 Q. And how many phys-ed classes did you have?

14 A. Same number, phys-ed -- health was a part of the
15 phys-ed curriculum. It was the same students.

16 Q. So you had five classes to teach each semester?

17 A. I believe that's right. Five or six.

18 Q. Was it combined health and phys-ed class?

19 A. Yes.

20 Q. So when was it that you would be teaching on your
21 own instead of team teaching during that first semester
22 in the fall of 2002?

23 A. The majority of the phys-ed classes.

24 Q. You would be teaching?



Richard Wilcoxon

108

1 A. On my own.

2 Q. On your own?

3 A. Yes.

4 Q. What about in the fall of, I'm sorry, the spring
5 of 2003, who did you teach with then?

6 A. Miss Freebery returned.

7 Q. Do you recall when she returned?

8 A. I want to say it was January, but I'm not sure.

9 Q. Was it the first time you met her?

10 A. My recollection is yes.

11 Q. Did you team teach with her during the rest of
12 that school year?

13 A. Yes, we team taught health classes.

14 Q. And did you do any classes on your own?

15 A. Yes. Again, majority of phys-ed classes.

16 (Wilcoxon Deposition Exhibit 5 was marked
17 for identification.)

18 Q. Do you recognize Exhibit 5?

19 A. Yes.

20 Q. What is it?

21 A. After my initial application in 2001, I wrote to
22 Miss Davenport to keep my application active for the next
23 hiring year.

24 Q. At that point you were living in Newark?



Richard Wilcoxon

109

1 A. That's correct.

2 Q. And you were commuting to Lake Forest?

3 A. Yes.

4 Q. Attached to that letter is your resume as of
5 March of 2002?

6 A. That's correct.

7 (Wilcoxon Deposition Exhibit 6 was marked
8 for identification.)

9 Q. Giving you Exhibit 6, what is that?

10 A. It looks like my application. The resume went
11 along with the application that I made in 2001.

12 Q. At that point you were living in Georgetown?

13 A. Yes.

14 Q. And at the bottom of that letter you say your
15 wife has accepted a job offer and you are planning to
16 relocate?

17 A. Yes.

18 Q. Where was she working at the time?

19 A. The YMCA in Pennsylvania. I believe it is in
20 Avon Grove.

21 Q. Was that the job she accepted --

22 A. Yes.

23 Q. -- to relocate?

24 A. Yes.



Richard Wilcoxon

110

1 Q. What was the job she had before that?

2 A. Before that she was working for Wesley College.

3 Q. For what?

4 A. Wesley College in Dover.

5 Q. And then you moved to Newark after to the Colgate
6 Lane address?

7 A. That's correct.

8 Q. And when did you move to that address; do you
9 know?

10 A. I believe it was August of 2001.

11 Q. And you continued to commute down to Lake Forest?

12 A. That is correct.

13 (Wilcoxon Deposition Exhibit 7 was marked
14 for identification.)

15 Q. Do you recognize Exhibit Number 7?

16 A. I do not.

17 Q. Have you ever seen that before?

18 A. I don't believe so.

19 Q. Do you know who Nick Manolakos is?

20 A. Yes, I do.

21 Q. What is his position?

22 A. He is the principal of Skyline Middle School.

23 Q. Did you interview with him for that position?

24 A. Yes, I did.



Richard Wilcoxon

111

1 Q. And when did you first start the interview
2 process with him? As of this point you were at Colonial,
3 correct?

4 A. Yes. It would have been September of that year.
5 I don't know the date.

6 Q. You would have just started at George Reed as of
7 September --

8 A. I would have started in August. Students report
9 in August.

10 Q. The end of August?

11 A. Yes.

12 Q. And by September you already decided you wanted
13 to leave and go to Red Clay?

14 A. That's correct.

15 Q. Did you know Mr. Manolakos other than having
16 applied for this position?

17 A. No, I did not.

18 Q. Do you know who else you interviewed with besides
19 him?

20 A. I know Frank Rumford was present, and I believe
21 Miss Basara. I don't know. I don't recall.

22 Q. At that point she was the assistant?

23 A. Yes.

24 Q. And do you recall anyone else being present?

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A-0111

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112

1 A. I don't recall.

2 Q. Who are you currently working for?

3 A. Who am I currently working for?

4 Q. Yes.

5 A. The Produce Marketing Association.

6 Q. And what do they do?

7 A. They are a non-profit association. We service
8 members from the field up to the stores that sell the
9 produce.

10 Q. What do you do for them?

11 A. I am an education coordinator, which means I plan
12 the education portion of all their conferences.

13 Q. When did you get that job?

14 A. August of this past year.

15 Q. August of 2005?

16 A. 2005, yes.

17 Q. And what did you do in the time period when you
18 left Red Clay, in June of 2004 until August 2005?

19 A. I worked for Kelly Sub Service, as a substitute
20 teacher, and that summer up until August I worked for a
21 landscaper called Heartwood Landscaping.

22 Q. Any other jobs?

23 A. Not that I recall.

24 Q. What is your salary at the Produce Marketing

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A-0112

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113

1 Association?

2 A. Currently?

3 Q. Yes.

4 A. A little over 36,000.

5 Q. What did you start at?

6 A. 35. It was like 35,049, something like that.

7 There is an odd number on the end.

8 Q. Did you apply for any other teaching positions
9 after you left Red Clay?

10 A. Yes.

11 Q. Where did you apply?

12 A. I applied at Brandywine, Middletown, Cesar
13 Rodney, Colonial. I applied at Milford, Indian River,
14 Delmar, Seaford. I applied in some of the Pennsylvania
15 school districts, Avon Grove and Kennett Square and some
16 of those districts. I can't remember them all.

17 Q. And did you receive any offers from any of those
18 school districts?

19 A. No, I did not.

20 Q. Are you still applying to school districts?

21 A. I haven't decided if I'm going to apply this year
22 or not.

23 Q. I'm sorry?

24 A. I haven't decided if I'm going to apply this year

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A-0113

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114

1 or not. At the end of each school year is when they
2 start looking at teachers. I have not decided if I'm
3 going to send out resumes this year.

4 Q. You may well decide to stay with your current
5 position?

6 A. There is a possibility.

7 Q. Do you like the current position?

8 A. Yes.

9 Q. Yes?

10 A. Yes. I am sorry.

11 Q. Who is your supervisor there?

12 A. Shara Stewart, S-H-A-R-A.

13 Q. What is her title?

14 A. I want to say she is the event manager.

15 Q. Event?

16 A. Education manager. I apologize.

17 Q. When you came to the Red Clay School District at
18 the Skyline school were you given any information on the
19 processes that should be used at the school for keeping
20 lesson plans, things like that? Did somebody tell you
21 what had to be done?

22 A. I was assigned a mentor in Frank Rumford.

23 Q. You what?

24 A. I was assigned a mentor in Frank Rumford.

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A-0114

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115

1 Q. What did he do?

2 A. I called him school disciplinarian. I know
3 that's not his title. I think he was activity adviser or
4 something like that.

5 Q. Did he advise you on what the proper protocol was
6 at Skyline?

7 A. Yes.

8 Q. And how long had he been at the school, to your
9 understanding?

10 A. I have no idea. I really don't.

11 Q. What do you recall him telling you about the
12 school and the proper protocol at the school?

13 A. As far as?

14 Q. Lesson plans, teaching, everything.

15 A. At the time when I got hired, the school year had
16 already started. As far as lesson plans go, I believe he
17 gave me the first week, was already planned out, so I
18 could get my feet wet for phys-ed.

19 He gave me the plan book for health and
20 said, "These are the lessons we use, and the work sheets
21 and tests are locked in a file cabinet, because we are
22 going to move you to health soon," and after that I was
23 planning my own lessons.

24 Q. Did you ever ask him any advice about anything

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A-0115

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116

1 while you were at Skyline during that first semester?

2 A. Sure.

3 Q. What did you ask him?

4 A. I asked him what is the procedure for certain
5 disciplinary actions. I asked him how would you handle
6 this situation or that situation. Just as I would any
7 mentor.

8 Q. What about in the second semester, did you ask
9 him any questions about anything?

10 A. I'm sure I did. The same type of questions.

11 Q. Do you remember asking him questions about what
12 things on his lesson plans meant, games, activities, that
13 sort of thing?

14 A. No.

15 Q. Did you ever do that in the two years that you
16 were at Skyline?

17 A. I may have. I don't recall.

18 Q. So you may have asked him things that were in his
19 lesson plan, what he meant by that?

20 A. Well, for the health lessons I was told these are
21 the lesson plans we use, and so I was using those lesson
22 plans.

23 Q. Did you ever ask him what things meant on the
24 plans he gave you?



Richard Wilcoxon

117

1 A. I may have.

2 (Wilcoxon Deposition Exhibit 8 was marked
3 for identification.)

4 Q. Do you recognize Exhibit 8?

5 A. Yes.

6 Q. And what is it?

7 A. It was the plan book Frank Rumford handed to me
8 for health.

9 Q. What you did was put a piece of tape across it
10 and put "Wilcoxon's Plan Book"?

11 A. I did that when Miss Basara asked for it, I
12 believe is when I did that.

13 Q. Before that it was --

14 A. A plan book.

15 Q. A plan book. When she asked you for a copy of
16 your plan book, you took a piece of tape and put across
17 the first page and wrote "Wilcoxon's Plan Book"?

18 A. She asked to see the health plan. I said, "Do
19 you want the phys-ed as well?" Because they were on my
20 computer, because I wrote the lesson plans and saved them
21 on my computer.

22 Q. With respect to this plan book, is it correct
23 that you, when she asked you for the plan book, you just
24 took a piece of tape and wrote your name on it?



Richard Wilcoxon

118

1 A. She asked me for lesson plans I use for health,
2 and that's what I did, yes.

3 Q. So all of the handwriting on the inside here is
4 Mr. Rumford's?

5 A. Not all of it, no.

6 Q. Who else's handwriting?

7 A. Mine would be in there.

8 Q. Show me where in here is your handwriting. Let's
9 take it page by page and tell me what is your
10 handwriting.

11 Why don't we take a break while we are
12 looking, and during the break or after, if you can go
13 through and see if you can identify your handwriting.

14 A. Okay.

15 (Recess taken.)

16 (Wilcoxon Deposition Exhibit 9 was marked
17 for identification.)

18 BY MR. WILLOUGHBY:

19 Q. Do you recognize Exhibit 9?

20 A. I don't remember it, but I'm sure I've seen it.
21 I was already working at Colonial when it came.

22 Q. So this letter is dated September 11, 2002.
23 Correct?

24 A. Yes.



Richard Wilcoxon

119

1 Q. And it says that your employment is authorized as
2 a health phys-ed teacher at George Reed, correct?

3 A. Mm-hmm.

4 Q. Effective August 27, so is that the date you
5 started?

6 A. I would assume so.

7 Q. And then were you interviewing and looking for
8 the position at Red Clay at the same time you got this
9 letter?

10 A. I had applied to Red Clay at the same time, yes.

11 Q. Do you remember when you had the interviews at
12 Red Clay?

13 A. In September.

14 Q. You are saying you weren't teaching phys-ed?

15 A. No.

16 Q. You were teaching just health?

17 A. Yes.

18 Q. Who was teaching phys-ed?

19 A. I do not remember the gentleman's name.

20 Q. There were two teachers there, one of you was
21 teaching health, the other was phys-ed?

22 A. There was three teachers in the health/phys-ed
23 department. I believe there was three. I was the only
24 one solely teaching health. The other two were teaching

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A-0119

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120

1 phys-ed.

2 Q. How many male teachers how many female teachers?

3 A. There was two male. I believe there was only one
4 female.

5 Q. And it says your salary will be predicated on a
6 Bachelors degree with zero years of experience. Do you
7 know why that is?

8 A. I have no idea.

9 Q. Did you have experience when you began at
10 Colonial?

11 A. Yes. Lake Forest, Chipman, I had forwarded that
12 I worked for them. Up to Colonial yet, I don't know.

13 Q. Did you ever have any discussion with anybody
14 about the fact that you were listed as having zero years
15 of experience?

16 A. I may have. I do not recall.

17 Q. Do you recall what your salary was at Colonial?

18 A. I do not.

19 Q. Do you recall what your starting salary was at
20 Red Clay?

21 A. I do not.

22 Q. Do you know if one was higher than the other?

23 A. I do not.

24 Q. Do you have a ballpark for what your figure for



Richard Wilcoxon

121

1 what your salary was when you were at Red Clay?

2 A. 38. I'm guessing. I don't know. If you are
3 asking for a ballpark.

4 Q. 38 is your recollection.

5 All right. Before we took the break I asked
6 you to go through Exhibit 8 and identify where in there
7 your handwriting appears. So have you done that?

8 A. Yes.

9 Q. And have you found some locations?

10 A. Yes.

11 Q. Down at the lower left-hand corner of this
12 document you will see what we call a Bates number. It
13 begins with C and then has some numbers after that.

14 A. Okay.

15 Q. Can you tell me what Bates number you have found
16 your handwriting on this document?

17 A. 00338.

18 Q. 00338. All right. Where on this page does your
19 handwriting appear?

20 A. At the top, the state standards, the AOD 1.2, 2--

21 Q. Slow down for me a second.

22 A. I'm sorry.

23 Q. The top of the document?

24 A. Top of the document.



Richard Wilcoxon

122

1 Q. Okay.

2 A. Right next to "Health" and "Alcohol" in
3 parenthesis there is an AOD 1.2, coma, 2, coma, 3, coma
4, coma 5. Below that is a "PA:4."

5 Q. Is that your handwriting?

6 A. Yes.

7 Q. Is anything else on that page your handwriting?

8 A. No, there is not.

9 Q. Okay. What other pages on this document did you
10 find your handwriting?

11 A. 00344.

12 Q. That's at the top of the page again?

13 A. It is at the top of the page again, by
14 "Health-Drugs" it says "AOD: 2, 3, 4, 5," then it says
15 "6th grade only, 1.1, 1.3, 1.4," and it says "PA:4."

16 Q. Is there anything else on that page that's your
17 handwriting?

18 A. Yes, on Wednesday, the 8th grade is crossed out,
19 over that it says "Review homework, Group Activity: Here
20 comes the joint homework: Face the facts."

21 Q. Anything else on this page your handwriting?

22 A. No.

23 Q. Now, at the top of that page, the material you
24 read first, why did you add that?



Richard Wilcoxon

123

1 A. Those are the forms indicators for health class.

2 Q. For the state?

3 A. Yes.

4 Q. When did you add that; do you know?

5 A. Probably at the beginning of 2003.

6 Q. Do you remember?

7 A. No, I don't. I'm giving you an estimate.

8 Q. Okay. And the prior page that we read where you
9 had similar writing, that was also added because of the
10 state standards?

11 A. Yes.

12 Q. Where else on this document has your handwriting?

13 A. There is no tag on this page.

14 Q. Is it after the ones you just --

15 A. Yes. It is further back. The page after C00355,
16 the very next page.

17 Q. 355?

18 A. 355.

19 MR. WILSON: I think it does have the Bates
20 number. It is just in a different location.

21 A. I'm sorry. It says "356." I'm sorry. It does
22 have it in a different location.

23 Q. Okay. Where on this page does your handwriting
24 appear?



Richard Wilcoxon

124

1 A. Again at the top it says "Health-Tobacco, TOB:
2 1, 2, 3, 4, INJ:1."

3 Q. Okay.

4 A. In addition, I circled the movies down there at
5 the bottom, on Thursday's date.

6 Q. The circle is your handwriting?

7 A. Yes, I circled the movies because I was getting
8 other films to replace those.

9 Q. But the rest of that was Mr. Rumford's
10 handwriting?

11 A. Correct.

12 Q. Within the circle?

13 A. Correct.

14 Q. All right. What else?

15 A. I marked it, but I don't see it now. That may be
16 it that I found in my quick review.

17 Q. Well, in quick review --

18 A. When I looked through it.

19 Q. Do you need more time to look further?

20 A. When I flipped page by page, those are the ones
21 that jumped out at me and I saw quickly.

22 Q. Why don't we take some time. I want you to go
23 through it again and make sure you have identified
24 everything that you think is your handwriting.



Richard Wilcoxon

125

1 MR. WILSON: Take your time.

2 Q. Take your time.

3 A. My writing is also on C00348.

4 Q. 348, okay.

5 A. Again, on Thursday it says "PI: EH 2, 3, 4, (8th
6 only 1.2.) Also by the quiz it says "IJ 10, IJ 2, IJH
7 2."

8 Q. That's on Friday?

9 A. Friday, yes.

10 Q. And nothing else on that page is your
11 handwriting?

12 A. That's correct.

13 Q. What does PI mean?

14 A. PI is performance indicator. It is part of the
15 state standards.

16 Q. At the bottom it says, is it IJ?

17 A. IJ.

18 Q. All right. Did you find anything else that's --

19 A. No, I did not.

20 Q. So those are the only markings you have been able
21 to find on this plan book that are your handwriting?

22 A. Yes.

23 Q. Did you ever tell anybody in a grievance process
24 that you didn't think you should have the burden of



Richard Wilcoxon

126

1 redoing lesson plans?

2 A. No, I did not.

3 Q. So that's another misstatement people are making
4 about you?

5 A. Yes.

6 Q. When was the last time you spoke to Rudy Norton
7 at DSEA?

8 A. I'm unsure. I don't recall.

9 Q. Was it within the last year?

10 A. Probably. I haven't talked to him in a long
11 time.

12 Q. When was the last time you spoke to anybody at
13 DSEA about this case?

14 A. I believe I sent an e-mail to Jeff Taschner to
15 let him know the conciliation did not work out. I think
16 that was the last thing I did.

17 Q. Was there ever an arbitration brought for any of
18 your allegations against the school district?

19 A. No, there was not.

20 Q. So DSEA declined to bring an arbitration on your
21 behalf?

22 A. Instead they put me in contact with Mr. Wilson to
23 represent me.

24 Q. My question is: Did they agree to put any of



Richard Wilcoxon

127

1 your claims against the school district into arbitration?

2 A. Initially they did and then they changed -- they
3 did not go forward with that.

4 (Wilcoxon Deposition Exhibit 10 was marked
5 for identification.)

6 Q. Have you read it?

7 A. Yes.

8 Q. Okay. Can you identify what it is?

9 A. I sent it when Mr. Rumford contacted me and said
10 Miss Freebery saw my log, she was very upset. I was home
11 sick and I sent her an e-mail.

12 Q. So this is Exhibit 10, and it is an e-mail from
13 you to Janay Freebery, Janay Jack at the time?

14 A. Yes.

15 Q. And it says "Sent: Monday, December 15, 2003 at
16 10:27 a.m."?

17 A. Correct.

18 Q. So how long was it after you spoke with Mr.
19 Rumford about him finding the legal pad was it that you
20 sent this e-mail?

21 A. Not very long.

22 Q. Well, how long is not very long?

23 A. I can't recall exact times. When I was called,
24 but I was called -- I was out sick that morning and I was



Richard Wilcoxon

128

1 called by Mr. Rumford and I sat down and wrote the
2 e-mail.

3 Q. Was it a half hour? An hour? Ten minutes?

4 A. I would say less than a half hour.

5 Q. Less than a half hour. Now, you were out sick?

6 A. Yes.

7 Q. Now, was the party at Janay's house that weekend?

8 A. I have no idea.

9 Q. Do you recall what the reason was that you were
10 out sick?

11 A. I believe I had an upset stomach.

12 Q. Did you go to the doctor?

13 A. No.

14 Q. Do you know what caused your stomach to be upset?

15 A. I have no idea.

16 Q. Did it have anything to do with the drinking at
17 the party?

18 A. No.

19 Q. And you say that at that party you never said to
20 Jan Basara or anyone else the comments about Janay being
21 the closest thing to being a wife and bitch that you
22 have?

23 MR. WILSON: Object to the form of the
24 question.



Richard Wilcoxon

129

1 Q. Correct?

2 A. I did not say that.

3 Q. You never said that?

4 MR. WILSON: Object to the form.

5 A. I did not say that.

6 Q. Anybody that said that is making it up?

7 A. Correct.

8 Q. So you wrote this e-mail to Janay. And I'm not
9 going to ask you to read it word for word. Looking at
10 the last sentence in the first paragraph, that says you
11 never showed it to anyone; is that correct?

12 A. That's correct.

13 Q. And you never did?

14 A. I never did.

15 Q. That was accurate?

16 A. That's correct.

17 Q. Going down to the second paragraph, middle of the
18 paragraph it says a teacher came to you and said that Ms.
19 Freebery had said that Frank will just have to deal with
20 Rich. He is just too hard to get along with. Who was
21 that teacher?

22 A. Linda Filer.

23 Q. And it says, "Or something along those lines."
24 So that's not an exact quote?

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A-0129

Richard Wilcoxon

130

1 A. Correct.

2 Q. It says, "They also advised me to start keeping a
3 log to CMA (cover my ass)." Who is the "they"?

4 A. Linda Filer.

5 Q. Linda Filer is a "they"?

6 A. As I said before, Tom Karpinski also was part of
7 that conversation.

8 Q. So was it referring to both --

9 A. It was actually referring to Linda. "They"
10 referring to the same person who told me this statement.
11 They were the ones who told me that statement.

12 Q. Wouldn't that be "she" as one person?

13 A. Maybe I mistyped it.

14 Q. So you are not referring to Mr. Karpinski in
15 that?

16 A. I was not.

17 Q. It was a cover my ass log, correct?

18 A. Correct.

19 Q. And that was for the reasons we have gone through
20 earlier in the deposition?

21 A. Correct.

22 Q. Then it says, "I was really hurt, angry and
23 concerned," so it is fair to say that you were angry?

24 A. When I heard that those statements were made,

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A-0130

Richard Wilcoxon

131

1 correct.

2 Q. You put that in writing here, correct?

3 A. Correct.

4 Q. When I asked you before you said you weren't
5 angry, but this refreshes your recollection that you
6 were?

7 A. I guess so.

8 Q. You signed at the bottom "Rich"?

9 A. Correct.

10 Q. Now, later on you told Ms. Basara you didn't want
11 her referring to you as "Rich"?

12 A. Correct.

13 Q. Why did you do that?

14 A. Because that's informal. And I felt that any
15 letter going to -- about disciplinary issues should be
16 formal.

17 Q. So it was okay for you to sign it as Rich but
18 when Ms. Basara communicated with you, you wanted her to
19 call you Richard?

20 A. Correct.

21 Q. And did she do that after you made that request?

22 A. I believe so.

23 Q. All right.

24 (Wilcoxon Deposition Exhibit 11 was marked

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A-0131

Richard Wilcoxon

132

1 for identification.)

2 Q. Are you done reading it?

3 A. Yes.

4 Q. This is Exhibit 11. Do you recognize that?

5 A. Yes.

6 Q. What is it?

7 A. It is an e-mail I wrote to Mr. Norton and his
8 response to me.

9 Q. This is after you contacted Mr. Norton, who is
10 with DSEA, as a grievance representative, correct?

11 A. Correct.

12 Q. Going down to the bottom of the page.

13 A. Okay.

14 Q. Where it says "The 2nd letter"?

15 A. Mm-hmm.

16 Q. Can you read that into the record, please.

17 A. "The 2nd letter states that I have kept students
18 after school several times --

19 Q. Slow down.

20 A. I'm sorry. "The 2nd letter states that I have
21 kept students after school several times and forgot to
22 sign up for busses. Well this is stretching the truth.
23 I have forgotten to sign up before Janay causes the
24 busses in at 10:00 a.m. but I have always remembered in



Richard Wilcoxon

133

1 time to call in my extra numbers before my activities
2 started."

3 Q. So you do agree that on some occasions you forgot
4 to make the calls about the busses?

5 A. By 10:00 a.m. I forgot to sign up the numbers.

6 Q. Looking over at page 2 of this, see item 4 there?

7 A. Yes.

8 Q. You say, "And finally, is everything I say to you
9 strictly confidential? Because there is something I want
10 to talk to you about but I don't want anyone else at all
11 to know about yet." What was that?

12 A. I do not recall.

13 Q. You don't know what it was?

14 A. I don't recall.

15 Q. Well, you have no clue as to what you were
16 referring to in that statement?

17 A. This e-mail was January 23rd, 2004. I don't
18 recall what I was thinking at that time.

19 Q. You have no idea what you were referring to that
20 was so important that you didn't want anyone else to know
21 about it?

22 MR. WILSON: Object.

23 A. I can make guesses, but I don't recall.

24 Q. What is your best recollection?



Richard Wilcoxon

134

1 A. As I said, I don't recall. I would be guessing.

2 Q. What is your best guess?

3 A. My guess would probably be the tapes, would be my
4 best guess, looking back at this time.

5 Q. The tapes that you were starting in December?

6 A. Yes.

7 Q. But you don't have a recollection of that?

8 A. I don't know if that's what I was referring to.

9 Q. Did you ever tell Mr. Norton that, in fact, you
10 had made some comments to Ms. Freebery that might be
11 inappropriate?

12 A. No, I did not.

13 Q. Did you tell Mr. Norton about your trip to
14 Hawaii?

15 A. I might have. I do not recall.

16 Q. Tell me about your trip to Hawaii. When did you
17 start planning that?

18 A. Whenever I turned in my request for personal
19 days. I don't know what day that -- when that was.

20 Q. That's when you started planning it?

21 A. Yes. My parents called me. My aunt had a time
22 share and she was not going to be able to use.

23 Q. Go ahead.

24 A. And that's when I started planning it.

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A-0134

Richard Wilcoxon

135

1 Q. How long were you out there?

2 A. I believe it was five days.

3 Q. Did you take any sick time as part of the time
4 you were away?

5 A. Not as part of the time I was away. I got sick
6 when I came back.

7 Q. So you weren't in Hawaii during either of the two
8 sick days that you took?

9 A. That's correct.

10 Q. Were you en route back?

11 A. No.

12 Q. So you made a trip to Hawaii for a total of five
13 days?

14 A. That's correct.

15 Q. And how long does it take to make a flight to
16 Hawaii?

17 A. I have no idea.

18 Q. Do you know what day you left on?

19 A. I believe it was Saturday, or it was a Wednesday.
20 I don't remember where the weekend fell. I planned it
21 around a weekend, so I could take the weekend.

22 Q. And do you know what day you came back?

23 A. Again, it would either be a Sunday or a
24 Wednesday.



Richard Wilcoxon

136

1 Is that correct? I planned around the
2 weekend. I was either leaving on the weekend or I was
3 coming back on the Sunday of that weekend.

4 Q. Let's mark this as the next document.

5 (Wilcoxon Deposition Exhibit 12 was marked
6 for identification.)

7 Q. Have you looked at the document?

8 A. Yes.

9 Q. This is Exhibit 12?

10 A. Mm-hmm.

11 Q. I'm going to represent to you the second page is
12 a printout of the times you were out and the call-in that
13 you made to SDS concerning the need for a substitute, and
14 the first page we put together recording that information
15 on a calendar.

16 A. Okay.

17 Q. Okay. So this SDS information shows you called
18 out for three personal days on Tuesday, January 13th.
19 Are you saying that's when you decided --

20 A. No, I didn't call out. I turned in the letter --
21 to take personal days you have to get approval from the
22 district. And whenever I turned in that document to get
23 approval from the district is when I started planning.
24 It was not the day before. It is when I turned in that



Richard Wilcoxon

137

1 letter.

2 Q. Why did you wait until the day before to call SDS
3 about substitute?

4 A. Because it wasn't approved until the day before,
5 is when I received the letter back saying my personal
6 days had been approved for those following days.

7 Q. Have you produced that letter?

8 A. I don't have that letter.

9 Q. When was the last time you saw it?

10 A. Probably when I received it.

11 Q. When was it, to your recollection, the date or
12 the month when you started planning the trip to Hawaii?

13 A. My guess would be December. It wasn't very long
14 before we left.

15 Q. December of 2000 --

16 A. '3.

17 Q. Who else was with you on the trip to Hawaii?

18 A. My parents and my uncle.

19 Q. How long did they stay?

20 A. They stayed for another couple weeks. They were
21 gone for a total of two weeks.

22 Q. Do you have any of your records with your airline
23 receipts, things like that?

24 A. No.



Richard Wilcoxon

138

1 Q. What agency did you use to schedule your airfare,
2 etcetera?

3 A. I couldn't tell you. I honestly don't know.

4 Q. What airline did you fly?

5 A. I'm making a guess it is USAir, but I don't know
6 for sure.

7 Q. You don't remember which airline you flew?

8 A. No.

9 Q. You think it might have been USAir?

10 A. It could possibly be USAir. I don't know.

11 Q. Could it be somebody else?

12 A. It could be.

13 Q. So you don't have any of the documentation
14 concerning your trip to Hawaii?

15 MR. WILSON: Object to form.

16 A. No, I do not.

17 Q. No receipts?

18 MR. WILSON: Object.

19 A. No.

20 Q. Credit card bills?

21 MR. WILSON: Object to form.

22 Q. Anything?

23 A. No.

24 Q. What caused you to get sick when you came back on



Richard Wilcoxon

139

1 Tuesday, the 20th and Wednesday, the 21st?

2 A. I don't recall exactly what I was sick with. I
3 think I picked something up on the plane. I visited a
4 doctor, got a doctor's note, because it was required.

5 Q. You actually went to the doctor?

6 A. Yes, I did.

7 Q. What day did you go to the doctor?

8 A. I went to the doctor I believe it was the 21st.
9 It may have been the morning of the 22nd, but I believe
10 it was the 21st.

11 Q. After you had called out sick two days?

12 A. I called out the first day when I was sick. The
13 second day I started trying to make an appointment with
14 the doctor.

15 Q. Who was the doctor?

16 A. Dr. Mark Wingel.

17 Q. Did he give you a diagnosis?

18 A. I don't recall what it was.

19 MR. WILLOUGHBY: Why don't we take our lunch
20 break now since it is a little bit after 12:00 and we
21 will come back.

22 (Lunch recess taken.)

23 (Wilcoxon Deposition Exhibit 13 was marked
24 for identification.)



Richard Wilcoxon

140

1

2 BY MR. WILLOUGHBY:

3 Q. Did you discuss your testimony with your attorney
4 over the lunch break?

5 A. No, I did not.

6 Q. We have marked Exhibit 13 and given that to you.
7 Have you seen that before?

8 A. Yes.

9 Q. Let me ask you to look at the last page, Bates
10 number 0413.

11 A. Okay.

12 Q. Under recommendations, can you read what is
13 listed as a recommendation?

14 A. "Make certain your plans are detailed and well
15 developed. One or two-word entries in your plan book is
16 unacceptable."

17 Q. So that's a reference to your lesson plans when
18 you were at Lake Forest?

19 A. That's correct.

20 Q. Did you during the course of the time you were
21 employed at Skyline ever ask Ms. Freebery to go to the
22 Big Kahuna with you?

23 A. Yes, I did.

24 Q. Tell me about that.



Richard Wilcoxon

141

1 A. Myself and another teacher were trying to get a
2 group of teachers to go together to see a band who was
3 playing.

4 Q. When was that?

5 A. I don't remember.

6 Q. Did you ever ask her to go to any other social
7 function with you?

8 A. I don't think so, but I may have.

9 Q. Did you ever ask her to do anything just the two
10 of you?

11 A. I don't think so.

12 Q. You might have?

13 A. I don't recall ever asking her.

14 Q. You don't remember?

15 A. Right.

16 Q. Okay. We are going to listen to a tape that your
17 attorney produced of the meeting where you say that you
18 stopped the tape because it was running out.

19 A. That's correct.

20 (Tape playing.)

21 Q. We can stop it. So just at the point where Ms.
22 Freebery makes comments about you making comments about
23 her personal life and that sort of thing you decided to
24 shut the tape off; is that correct?

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Richard Wilcoxon

142

1 A. I was afraid the tape was running out. Our time
2 of the meeting was almost over. I knew the tape was only
3 a half hour long, and I was turning it off --

4 Q. Is it correct you shut the tape off at the point
5 where she made the comments that you were making
6 inappropriate remarks to her about her personal life;
7 isn't that true?

8 A. It was right after, yes.

9 Q. And you are saying that's just coincidence that
10 you shut it off then?

11 A. That's correct.

12 Q. Now, after that you made a comment on the tape,
13 that's on the tape we have. When did you make that
14 comment?

15 A. After my class that day. We left. I had to go
16 teach my class. And after that class I made that
17 comment.

18 Q. Did you record over anything when you made that
19 comment?

20 A. I don't believe so.

21 Q. Is it possible you did?

22 A. I highly doubt it, but I'm not going to say it is
23 impossible. I just hit record again right after.

24 Q. Why don't you play the rest of the statement.



Richard Wilcoxon

143

1 (Tape playing.)

2 Q. I'll note the time. Let's see how much time is
3 left on that tape.

4 (Tape playing.)

5 Q. I got six minutes, 20 seconds, something in that
6 range. Sound about right to you?

7 A. Sure.

8 MS. SMITH: I didn't time it. I didn't hear
9 what you said.

10 MR. WILLOUGHBY: I said I got six minutes,
11 20 seconds, in that range. You can turn it off.

12 BY MR. WILLOUGHBY:

13 Q. Now, you made some editorial comments on that
14 tape, right?

15 A. Yes.

16 Q. Why did you decide to put those comments on that
17 tape? I mean, here you are, you are making a record of
18 things that took place, and then you make a comment on
19 there instead of just saving that remark for some other
20 time. Why did you decide to do it right on the tape at
21 that time, right after she accused you of making
22 inappropriate comments?

23 A. I did it then because I stopped the tape.

24 Q. Did you make other comments on these tapes?



Richard Wilcoxon

144

1 A. In between each conversation I would make
2 comments such as who was attending, and approximate time
3 of when the meeting happened, those type of things, yes.

4 Q. Why did you make the comments about her obviously
5 making it up and that sort of thing at that point on the
6 tape?

7 A. Because I was very unhappy about that. I think
8 anybody would be if they are falsely accused.

9 Q. How long after you made this tape was it you put
10 in your editorial comments?

11 A. It was the same day.

12 Q. How long afterwards in the same day?

13 A. It was after my next class.

14 Q. So it was an hour later?

15 A. 42 minutes or whatever classes ran, 45 minutes.

16 Q. And it was just a pure coincidence that you
17 turned it off at that point?

18 A. Yes.

19 (Wilcoxon Deposition Exhibit 14 was marked
20 for identification.)

21 Q. Do you recognize Exhibit 14?

22 A. Yes, I do.

23 Q. What is that?

24 A. It is a letter that Jan Basara showed me on



Richard Wilcoxon

145

1 January 22nd, referring to a meeting that took place on
2 December 17th.

3 Q. Was that the meeting we just listened to on the
4 tape?

5 A. That's the meeting we listened to the very end of
6 on the tape.

7 Q. Before you turned it off?

8 A. That's correct.

9 Q. Were you being reprimanded here for making
10 inappropriate remarks?

11 A. That's correct.

12 Q. And is that your writing at the bottom or did
13 somebody else write it?

14 A. That's Miss Basara's writing.

15 Q. Is it correct you refused to signed the document?

16 A. Yes, I did.

17 Q. Do you believe that it is likely that Ms. Basara
18 and Mr. Rumford accepted Ms. Freebery's version of the
19 events concerning your inappropriate remarks over your
20 denial?

21 A. Apparently.

22 Q. Would you agree with me that if you had made a
23 comment to Ms. Basara at Ms. Freebery's party to the
24 effect of that Ms. Freebery was the closest thing to a

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A-0145

Richard Wilcoxon

146

1 wife and bitch that you had, that would lend credence to
2 Ms. Freebery's charges against you?

3 MR. WILSON: Object to the form.

4 A. I have never made that comment.

5 Q. I'm asking you hypothetically.

6 A. Hypothetically.

7 MR. WILSON: Object to the form.

8 Q. If Ms. Freebery heard you make a comment like
9 that -- I'm sorry -- Ms. Basara heard you make a comment
10 that Ms. Freebery was the closest thing to a wife and
11 bitch you had, that that would lend credence to Ms.

12 Basara's belief in the accuracy of Ms. Freebery's story?

13 MR. WILSON: Objection.

14 A. It might, yes.

15 Q. Did you file a grievance over this?

16 A. Yes, I did.

17 Q. Now, did you believe as of this point, January of
18 '04, that your job was in jeopardy?

19 A. I believed that since December 17th.

20 Q. So you thought there was a pretty good chance you
21 wouldn't be renewed?

22 A. I thought there was a chance I would not be
23 renewed, yes.

24 (Wilcoxon Deposition Exhibit 15 was marked

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A-0146

Richard Wilcoxon

147

1 for identification.)

2 MR. WILLOUGHBY: Let's mark this as the next
3 exhibit too.

4 (Wilcoxon Deposition Exhibit 16 was marked
5 for identification.)

6 BY MR. WILLOUGHBY:

7 Q. Exhibit 15 is the last page of Exhibit 16,
8 correct?

9 A. Correct.

10 Q. And that's the rewrite of the reprimand you
11 received for the inappropriate comments?

12 A. Yes.

13 Q. And you see there is a paragraph in there that
14 says, "Your immediate response to Mr. Rumford and me was
15 that Janay had 'opened the door,'" do you see that?

16 A. Yes.

17 Q. Now, looking at Exhibit 16, that's from your
18 grievance representative, Rudy Norton at DSEA?

19 A. Yes.

20 Q. So isn't it correct that the changes made to
21 Exhibit 15 were revised on March 8 at the request of your
22 DSEA representative?

23 MR. WILSON: Object to the form.

24 A. I guess so.

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A-0147

Richard Wilcoxon

148

Q. Do you recognize Exhibit 17?

4 A. Yes.

5 O. What is that?

A It is a letter that was given to me the same day.

7 Q Did you receive it the same time?

8 A Yes

9 8 Now =

10 A Well right after. The same meeting.

11 Q Same meeting?

12 A Same meeting

Q Which one was given to you first?

14 The last one.

15 0 172

16 A No I am sorry --

The one dealing with the sexual harassment

18 | comments?

19 A Yes

-30 Q And

A. Yes.

Q. why did you refuse to sign it?

23 A. I thought I did not have union representation
24 I wanted to talk to a union about it. I felt



Richard Wilcoxon

149

1 that the obligations were untrue.

2 Q. Any other reasons?

3 A. I felt it didn't show my side of the story.

4 There was a number of reasons.

5 Q. What was your side of the story?

6 A. That those comments did not happen.

7 Q. That's the whole side of your story?

8 A. Yes, that it comes as retaliation for me keeping
9 a log. That she made the statements I made as
10 retaliation for me keeping a log.

11 Q. "She" being Ms. Freebery?

12 A. Yes, Miss Freebery.

13 Q. Looking at 17, which deals with the busses, do
14 you see that?.

15 A. Yes.

16 Q. You signed that one?

17 A. Yes.

18 Q. Does that mean you agree the comments are
19 accurate?

20 A. I agree they are somewhat accurate.

21 Also, I had asked for the meeting to stop so
22 I can get union representation, and Miss Basara did not
23 allow that to happen. She said not until you get the
24 last two letters. At that point I just wanted to talk to

